IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO.7425 of 2005

Between:

M/s. Sai Pooja Travel Wings Pvt. Ltd., Rep. by its Director

Smt. Ch. Uma, R/o. House No. 8-3-318/3/A/27, Yellareddyguda, Hyderabad.

..... PETITIONER

AND

1 The Station House Officer, Miyapur Police Station,

Cyberabad, Hyderabad.
2 C. Venkat Reddy, Circle Inspector of Police, Miyapur,

Cyberabad, Hyderabad.
3 Hari Kishan Aggarwal, S/o. Late Mahadev Prasad,
R/o. 5-3-844, Malakunta Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ, Order or direction declaring the action of the Respondents 1 and 2 in interfering with the petitioner's right to enjoy the property admeasuring Ac. 1.03 cents in R.S.No.56/1 of Hafizpet Village, Sirelingampally Mandal, Ranga Reddy District and interfering with the Civil dispute at the instance of the 3rd Respondent in spite of the order of injunction granted by the competent Civil Court as illegal, arbitrary, violative of Art. 14, 19,21 and 300-A of the Constitution of India.

Counsel for the Petitioner: MR.K.CHIDAMBARAM

Counsel for the Respondent Nos.1 and 2: GP FOR HOME

Counsel for the Respondent No.3: MR.J.PRABHAKAR

The Court made the following:

ORDER:

The petitioner claims to have purchased an extent of Acs.1.03 in survey No.56/1 of Hafeezpet village, Serilingampalli Mandal, Ranga Reddy District from Nimmala Srinivas Raja Mallaiah, Prabhakar and Venugopal. In relation to the land in the same survey number, it appears there is a dispute between the third respondent and the petitioner's vendors. The fall out of the said dispute appears to be an alleged interference by the third respondent with the petitioner's alleged possession. Therefore, he filed a suit in O.S.No.539 of 2005 on the file of the Court of the Principal Junior Civil Judge, Ranga Reddy District and the said Court by order dated 20.03.2005 in I.A.No.1339 of 2005 passed an order of ad interim injunction. It is now alleged that though the matter is pending in the civil Court, the respondents 1 and 2 are interfering in the civil dispute and trying to dispossess the petitioner. Therefore, the present writ petition is filed.

This Court while admitting the writ petition passed the following interim order in W.P.M.P.No.9884 of 2005 on 12.04.2005.

> Heard both sides.
>
> In view of the facts and circumstances, respondents 1 and 2 are directed not to violate the orders passed by the learned Principal Junior Civil Judge, R.R.District, in I.A.No.1339 of 2005 in O.S.No.539 of 2005.

The third respondent has now moved W.V.M.P.No.1268 of 2005 for vacating the interim order. At that stage itself, as the matter is pending in civil Court and the civil Court has already made the ad interim injunction order absolute, the matter is being disposed of with the consent of the learned counsel for the petitioner.

The learned counsel for the petitioner reiterated the contentions mentioned in the affidavit accompanying the writ petition, Sri J.Prabhakar, learned counsel for the third respondent, submits that the vendors of the petitioner suffered a decree of perpetual injunction in O.S.No.1 of 1990 dated 08.12.1997 passed by the Court of Principal Junior Civil Judge, Hyderabad (West and South), Ranga Reddy District and that the petitioner is never in possession of the land. He, however, does not dispute that when there is a civil dispute, police cannot interfere in the matter.

This Court in **S.Masthan Saheb v P.S.R. Anjaneyulu**, after referring to the entire case law on the subject held as under:

> The various provisions to which a brief reference is made would show that the power of the police to collect intelligence regarding any design to commit cognizable offences and prevent commission of cognizable offences is considered to be the inherent power of the police organization. Whether or not there is a special enactment, the police are expected to perform its functions; namely, maintenance of peace and public order and prevention of cognizable offences. When all these statutes dealing with police in Andhra Pradesh deal with duty of the police relating to cognizable offences, a Police Officer would not be justified in saying that he/she is looking into a complaint made by a person which has, *ex facie*, trappings of the civil dispute. Indeed, under sub-section (1) of Section 154 of Cr.P.C, it shall be within the power and duty of the Police Officer to register only a cognizable offence. Though under Section 155 of Cr.P.C. a Police Officer can make an entry in the appropriate register about the information as to non-cognizable offence, such Police Officer shall not investigate a non-cognizable offence without the order of the Magistrate. As a necessary corollary, it must be concluded that any effort on the part of the police "to look into' any complaint by any person which does not contain allegations of commission of cognizable offences would not only violate the various provisions of the Andhra Act, as in this case, but also would violate Section 155 (2) of the Cr.P.C. Any such action would be *ex facie* illegal, whatever be the *ipsi dixit* of the police. There is no presumption in law that every rift in human relations would lead to a civil dispute and civil dispute would likely to result in clashes, resulting in offences against human body. Any such effort on the part of the police to look into the complaints regarding civil disputes is not even the part of the Code of Conduct of the Police, which was communicated by the Government of India in 1987…

In this case as held by this Court when the civil dispute is pending in civil Court, respondents 1 and 2 could not have interfered in the matter. As observed by the Division Bench of this Court in **Satyanarayana Tiwari v. Commissioner of Police,** when an order of injunction is passed, it is the duty of the police to implement the said order. Be that as it is, now that the petitioner wants to move the civil Court for such an order directing the police to give protection, no opinion need be expressed on this aspect. Both the parties are given liberty to approach the civil Court and seek appropriate redressal in this regard.

The writ petition, without expressing any opinion on the rights of the petitioner and the third respondent, is accordingly disposed of observing as above. As and when such an application is moved, the civil Court shall decide the said application not being influenced in any manner by any of the observations made hereinabove.

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(V.V.S.RAO,J)

29.06.2005.

pln

Note: Issue order copy by 04.07.2005.

(By order)

pln

To

1 The Station House Officer, Miyapur Police Station,

Cyberabad, Hyderabad.
2 C. Venkat Reddy, Circle Inspector of Police, Miyapur,

Cyberabad, Hyderabad.
3 Two CCs to the Government Pleader for Home,

High Court Buildings, Hyderabad. (OUT)

4 Two C.D. Copies.